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| EXAMINER |
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WOOD, JONATHAN K

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| ART UNIT | PAPER NUMBER |
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3754

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03/18/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/570,821 | Applicant(s) BECKER-WEIMANN, KLAUS | |
| | Examiner JONATHAN WOOD | Art Unit 3754 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-14, 16, 17, 20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-14, 16, 17, 20 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 March 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the ram being assigned a pistol-type and/or pliers-type handle must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 states “the dispensing tip is screwed on the dispensing device” in line 2 after previously reciting in claim 10, lines 8-9 that “the dispensing tip...is screwed onto a metal thread on the adhesive fluid cartridge”. It is unclear how the tip can be screwed both to the dispensing device and the cartridge and as such examiner assumes the tip is only screwed to the cartridge as that is what is shown in the figures.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10-14 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,026,187 to *Belanger et al.* (*Belanger*) in view of US Patent No. 6,892,904 B2 to *Osborn et al.* (*Osborn*).

Belanger shows an adhesive fluid dispensing device with a dispensing tip (18) composed of readily heat-conductive material (col. 4, ll. 32-35) to which a flow from a

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metal (col. 2, ll. 11-12) adhesive fluid cartridge (6) passes, the cartridge having a manually actuatable plunger (26) and being assigned a cartridge heater (10 with 16) arranged around the cartridge to heat its contents from diametrically opposite sides (col. 2, ll. 16-19), wherein a ram (24) acts on a surface area of the plunger smaller than its full surface area (Figure 2; col. 2, ll. 37-40).

Belanger does not disclose that the dispensing tip is screwed onto a metal thread on the adhesive fluid cartridge but instead discloses that the dispensing tip is integral with the cartridge (col. 2, ll. 52-61).

However, *Osborn* shows an adhesive fluid dispensing device which utilizes a metal (col. 5, ll. 23-25) material cartridge (210) having threads (236) onto which a dispensing tip (238) is screwed. It would have been obvious to one of ordinary skill in the art at the time of the invention, under the teachings of *Osborn*, to have made the dispensing tip of the cartridge of *Belanger* removably secured to the cartridge body in a manner similar to the cartridge of *Osborn* in order to allow the tip to be interchanged with others depending on the job to be performed with the device (*Osborn*; col. 5, ll. 54-56). Especially since the disclosure of *Belanger* mentions the advantage of being able to use different sizes and types of nozzles according to the material being dispensed (col. 2, ll. 59-61).

Regarding claims 12 and 14, *Belanger* as modified by *Osborn* shows the dispensing device is connected in a form-fitting manner to the cartridge (*Belanger*, col. 4, ll. 19-24).

Regarding claims 20 and 21, *Belanger* as modified by *Osborn* shows the cartridge heater insulating the fluid cartridge (inherent) and being supplied power by electric current (col. 2, ll. 19-20).

6. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Belanger* in view of *Osborn* as applied to claim 10 above, and further in view of US Patent No. 4,065,034 to *Callan* (*Callan*).

Belanger as modified by *Osborn* shows all aspects of applicant's invention as set forth in claim 10, but does not disclose the ram assigned with a pistol-type and pliers-type handle. However, *Callan* discloses an adhesive fluid dispensing apparatus having a ram (21) which is associated with a pistol-type (20a) and pliers-type (23) handle. It would have been obvious to one of ordinary skill in the art at the time of the invention, under the teachings of *Callan*, to have included a pistol-type and pliers-type handle associated with the ram of *Belanger* as modified by *Osborn* in order to allow the user to more easily advance the ram when desired. Especially since the disclosure of *Belanger* mentions the use of the ram 24 with a ratcheting mechanism (col. 2, ll. 33-37).

7. Claims 10-14, 16-17 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 4,067,481 to *Feldman* (*Feldman*) in view of *Belanger* and US Patent No. 6,705,756 to *Botrie et al.* (*Botrie*).

Feldman shows an adhesive fluid dispensing device with a dispensing tip (18) to which a flow from an adhesive fluid cartridge (10) passes, the cartridge having a

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manually actuatable plunger (12) and being assigned a cartridge heater (36) arranged around the cartridge to heat its contents from diametrically opposite sides (Figure 2), wherein a ram (56) acts on the surface of the plunger and the ram is assigned a pistol-type and pliers-type handle (50 and 52, Figure 2).

Feldman fails to show the ram acting on a surface of the plunger smaller than its full surface or the dispensing tip being composed of readily heat conductive material and being screwed onto the fluid cartridge.

However, *Belanger* shows an adhesive fluid dispensing device with a dispensing tip (18) to which a flow from a metal (col. 2, ll. 11-12) adhesive fluid cartridge (6) passes, the cartridge having a manually actuatable plunger (26) and being assigned a cartridge heater (10 with 16) arranged around the cartridge to heat its contents from diametrically opposite sides (col. 2, ll. 16-19), wherein a ram (24) acts on a surface area of the plunger smaller than its full surface area (Figure 2; col. 2, ll. 37-40). It would have been obvious to one having ordinary skill in the art at the time of the invention, under the teachings of *Belanger*, to have made the ram of *Feldman* act on a surface area of the plunger smaller than its full surface area in order to allow space for an o-ring seal to be provided around the ram which would prevent seepage of material out of the cartridge and into the device (*Belanger*; col. 2, ll. 37-40).

Further, *Botrie* discloses an adhesive cartridge for use in an adhesive fluid dispensing device (col. 1, ll. 28-30) which is composed of metal (col. 4, ll. 33-34) and has a metal dispensing tip (8, col. 4, ll. 34-35) which is threaded onto the cartridge (col. 4, ll. 25-27). It would have been obvious to one of ordinary skill in the art at the time of

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the invention to have used the device of *Feldman* as modified by *Belanger* with the cartridge taught by *Botrie* since it was known in the art to use the cartridge of *Botrie* in place of a standard caulk cartridge in a dispensing device (*Botrie*; col. 1, ll. 25-30) and it would therefore have been obvious for one of ordinary skill in the art to try to use the cartridge of *Botrie* in the device of *Feldman* as modified by *Belanger* since it utilizes standard sized caulking tubes (*Feldman*; col. 2, ll. 10-14).

Regarding claims 12 and 14, *Feldman* as modified by *Belanger* and *Botrie* shows the dispensing device is connected in a form-fitting manner to the cartridge (*Feldman*; col. 4, ll. 3-9).

Regarding claims 20 and 21, *Feldman* as modified by *Belanger* and *Botrie* shows the cartridge heater insulating the fluid cartridge (inherent) and being supplied power by electric current (*Feldman*; col. 3, ll. 49-53).

Response to Arguments

8. Applicant's arguments, see page 6, line 25 to page 7, line 2, filed 11/24/2009, with respect to the rejection(s) of claim(s) 12 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of above.

Further, applicant's other arguments have been fully considered but they are not persuasive. Applicant argues on page 7, lines 12-22, that "*Belanger* cannot be fairly characterized as disclosing a cartridge heater arranged around the adhesive fluid

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cartridge” because “the PTC heating unit is arranged in a second parallel channel to heat the cartridge in the first channel only from one side.” Examiner disagrees. The heating mechanism of *Belanger* includes not only the PTC heating unit 10 but also the melt chamber 16 which is in thermal contact with the PTC heater (col. 2, ll. 21-22). The melt chamber 16 can clearly be seen in Figure 2 of *Belanger* as surrounding the cartridge 6 and is taught as acting as a heat transmission mechanism from the first channel having the PTC heating unit to the second channel having the cartridge (col. 2, ll. 41-43). This concept is further reinforced by *Belanger* stating that the cartridge 6 is “to be rapidly and evenly heated” (col. 2, line 19). Therefore, examiner contends that *Belanger* does in fact disclose a heater arranged around the cartridge.

Applicant argues on page 7, lines 23-26, that “*Belanger* does not disclose a ram that acts on a small surface of the plunger, which is less than the full surface of the plunger” and then applicant refers to Figure 2 of *Belanger* as evidence. Examiner disagrees. Examiner has blown up and annotated Figure 2 of *Belanger* below to point out the reduced surface area of the ram acting on the plunger caused by the inclusion of the seal member 30 (A represents the end of the ram which transitions to the cross-hatched seal member B (30)).

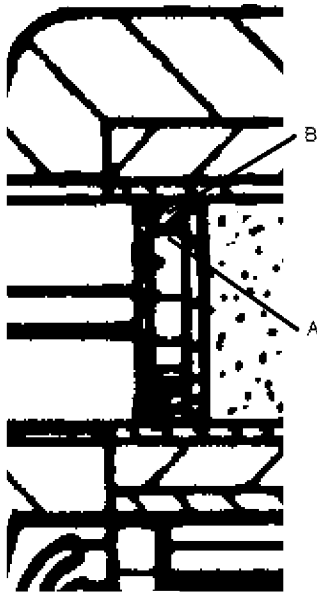


Figure 2 of *Belanger*, as annotated by examiner

Applicant's arguments in section titled "Prior Art Rejection III" have been considered but are moot in view of the new ground(s) of rejection.

Regarding applicant's arguments on page 9, lines 19-28, in which applicant contends that *Osborn* is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the field of applicant's endeavor includes art of both heated and non-heated adhesive fluid dispensing devices, especially when concerned with a particular problem such as the use of an interchangeable nozzle versus an integral nozzle.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US Patent No. 5,833,099 to *Boaz et al.* discloses a caulking cartridge with a metal nozzle and body, similar to the cartridge in applicant's invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN WOOD whose telephone number is (571)270-7422. The examiner can normally be reached on Monday through Friday, 7:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571)272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JKW/
Examiner, Art Unit 3754

/Kevin P. Shaver/
Supervisory Patent Examiner, Art Unit 3754